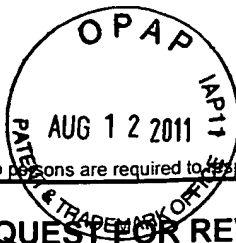


Doc Code: AP.PRE.REQ



PTO/SB/33 (07-09)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

944-001.070-2

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on August 8, 2011

Signature

Typed or printed name Cathy Sturmer

Application Number

10/781,325

Filed

February 17, 2004

First Named Inventor

Jussi PIISPANEN

Art Unit

2152

Examiner

Kenny LIN

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 58,051

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Keith R. Obert

Typed or printed name

203-261-1234

Telephone number

August 8, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 944-001.070-2
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

Jussi PIISPANEN : Confirmation No.: **9454**

Serial No.: **10/781,325** : Examiner: **Kenny LIN**

Filed: **February 17, 2004** : Group Art Unit: **2152**

For: **METHOD AND APPARATUS FOR SYNCHRONIZING HOW DATA IS STORED
IN DIFFERENT DATA STORES**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the final Office Action of April 6, 2011, please reconsider the rejections in view of the following remarks:

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Cathy Sturmer

Dated: 8/8/11

REMARKS

Claims 31-66 were examined by the Office, and in the final Office Action of April 6, 2011 all claims are rejected. With this response, no claims are amended, added or cancelled. Applicant respectfully submits that the Office has committed clear error in rejecting the claims, because the Office has failed to show that the cited references disclose or suggest all of the limitations recited in the claims. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

This response is submitted along with a Notice of Appeal.

Claim Rejections Under § 103

In section 4, on page 2 of the Office Action, claims 31-35, 37-39, 41-43, 45-50, 52-54 and 56-66 are rejected under 35 U.S.C. § 103(a) as unpatentable over Applicant Admitted Prior Art (AAPA) disclosed on pages 1-10 of the instant application in view of Rabbers et al. (U.S. Appl. Publ. No. 2007/0016695). Applicant respectfully submits that claim 31 is not disclosed or suggested by the cited references, because the cited references fail to disclose or suggest all of the limitations recited in claim 31. The cited references, alone or in combination, at least fail to disclose or suggest that the command message is for synchronizing the second data store with respect to a change in the directory structure of the first data store and a message including a command for synchronizing the second data store with respect to a change in the directory structure of the first data store, the command including at least one data identification element, embedded in the command, identifying a folder associated with at least one modification in the directory structure of the first data store. Accordingly, applicant respectfully submits that the cited references at least fail to disclose or suggest these limitations recited in claim 31.

In contrast to claim 31, page 6, lines 14-24 of the AAPA clearly indicates that the commands relate to operations associated with data items, and do not disclose or suggest synchronization with respect to a change in directory structure. For example, SyncML defines request commands and response commands, and the request commands include add, which is a command that allows the originator to ask that one or more data units be added, copy, which is a command allowing the originator to ask that one or more data units accessible to the recipient be copied, and delete, which is a command allowing the originator to ask that one or more data units accessible to the recipient be deleted or archived. See AAPA page 6, lines 25-33. Therefore, the

commands discussed in this section of the AAPA do not relate to changes in directory structure, as recited in claim 31, but instead relate to data units. Furthermore, page 1, lines 22-31 and page 2, lines 1-29 of the AAPA indicates the need for synchronizing data stores when changes are made and explains that the synchronization process makes the two data stores correspond to each other but does not teach how to synchronize changes in the directory structure. In particular, the AAPA specifically states that “with SyncML, data items, but not yet data structure, can be synchronized on different devices connected via one or more interconnecting networks.” See AAPA page 2, lines 21-23. Therefore, the AAPA does not provide a solution for synchronizing directory structure, but instead is merely identifying a problem. In addition, page 7, lines 8-18 of the AAPA only describes different XML element types of XML documents in SyncML protocol, but does not teach how to synchronize two data stores with respect to changes in directory structure, as recited in claim 31. Therefore, for at least the reasons discussed above, claim 31 is not disclosed or suggested by the AAPA.

In addition, the Office acknowledges on page 3 of the Office Action that the AAPA does not disclose a message comprising a command with respect to change in the directory structure of the first data store or identifying a folder associated with at least one modification in the directory structure of the first data store, and relies upon Rabbers for this teaching. However, applicant respectfully submits that Rabbers fails to make up for the deficiencies in the teachings of the AAPA identified by the Office. Rabbers states that the synchronization client is configured to determine whether to download to the handheld device a full extract of the main database or to download a delta extract, i.e. only the data in the main database that has changed since the last synchronization operation. See Rabbers paragraph [0006]. In Rabbers, performing the delta extract download when appropriate helps to reduce the time needed to complete a synchronization operation. At the server side in Rabbers, the computer system (204) can compare the current extract with the previous extract and download only the database data that has changed, i.e. the delta extract, and the previous extract can then be deleted. See Rabbers paragraph [0052]. In certain circumstances, the computer system (204) may ignore the previous extract, and instead download the current extract, for example, if the structure of the main database (112) changed since the previous extract, then the computer system (204) would perform a full extract rather than attempt to perform a delta extract. See Rabbers paragraph [0056]. Therefore, Rabbers clearly states that in case of a change in the structure of a main

database, a full extract, i.e. a full synchronization where all items are exchanged, is performed. In contrast to claim 31, Rabbers does not disclose or suggest a change in the directory structure, as recited in claim 31.

However, even if a change in the structure discussed in Rabbers can be interpreted as a change in the directory structure, which applicant does not admit, Rabbers proposes a full synchronization in this situation and not a message that includes a command for synchronizing the second data store with respect to a change in the directory structure of the first data store, where the command includes at least one data identification element embedded in the command identifying a folder associated with at least one modification in the directory structure of the first data store, as recited in claim 31. Sending a message with a command that includes a data identifier identifying a folder is distinct and technically more efficient than performing a full synchronization each time there is a change in the structure.

Furthermore, the extraction ID discussed in Rabbers is distinct from the at least one data identification element embedded in the command identifying a folder, as recited in claim 31. Rabbers states that the extraction ID identifies the version of the database extract. See Rabbers paragraph [0134]. The version of the extract is clearly different from a folder in the database. In Rabbers, the server (116) receives a request from sync client (401) for either a full extract or a delta extract, and the sync client (401) may base these request on whether an extraction ID downloaded from the server (116) matches an extraction ID locally stored by the sync client (401). See Rabbers paragraph [0150]. Therefore, in Rabbers the extraction ID is downloaded from the server, and based on the downloaded extraction ID the client will decide whether to request a full request or a delta request. Accordingly, the extraction ID is downloaded before sending the request, which is in contract to claim 31, in which the identifier is sent in the message requesting directory structure synchronization.

Therefore, even if the AAPA is combined with the teachings of Rabbers, which applicant does not admit is possible, the combination asserted by the Office would at most lead to a full synchronization each time there is a change in the structure of the main database, which is distinct from the limitations recited in claim 31.

Independent claims 38, 46 and 57 contain limitations similar to those recited in claim 31. Therefore, for at least the reasons discussed above with respect to claim 31, claims 38, 46 and 57 are not disclosed or suggested by the cited references.

The dependent claims rejected above, all ultimately depend from an independent claim, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies.

Claim Rejections Under § 103

In section 21, on page 10 of the Office Action, claims 36, 40, 44, 51, 55 and 65 are rejected under 35 U.S.C. § 103(a) as unpatentable over the AAPA in view of Rabbers, and in further view of Edwards (U.S. Patent No. 7,395,281). Claims 36, 40, 44, 51, 55 and 65 all ultimately depend from an independent claim, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies.

Conclusion

For at least the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 8 August 2011



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